

UNITED STATES DISTRICT COURT
DISTRICT OF VERMONT
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DISTRICT OF VERMONT

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ADDISON CENTRAL SCHOOL
DISTRICT, et al.,

Plaintiffs,

No. 2:23-CV-164-cr

v.

MONSANTO CO., SOUTIA, INC., and
PHARMACIA LLC,

Defendants.

ORDER
STIPULATION REGARDING EVIDENCE

~~Plaintiffs, Defendants, the State of Vermont, and the "Third Parties" (as defined below)~~ CR

stipulate and agree to the following:

1. The "Third Parties" are defined as the following contractors: Atlas, Harper Environmental/John Turner Consulting, VHB, Verterre, Waite Heindel, Stone Environmental, and Fuss & O'Neill. The Third Parties' duties set forth ~~in this~~ heren and CR stipulation stem from their obligations to respond to the subpoenas served on them by Defendants in August 2023.
2. Plaintiffs will provide Defendants reasonable advance notice and opportunity to attend, document, and reasonably observe all work related to polychlorinated biphenyls ("PCB") and environmental contaminants, including but not limited to, asbestos, lead, and mold (hereinafter "Contaminants"). This shall be defined as "PCB/Contaminant Work." It includes, but is not limited to, air testing, bulk sampling, mitigation, and remediation for PCBs or Contaminants. For the avoidance of doubt, it includes any work completed at the school relating to the mitigation of PCB or Contaminants, even if that work does not directly involve sampling or removal of those materials, such as work on or adjustments made to the HVAC systems.

More specifically,

- a. Plaintiffs will notify Defendants of all PCB/Contaminant Work at least two weeks prior to the work commencing or within 24 hours of the work being scheduled, whichever is *earlier*. (E.g., if testing is scheduled four weeks before it begins, there must be four weeks notice.) Subject to paragraph (b), a minimum of five business days' notice must be given for all PCB/Contaminant Work. If notice is given less than five business days before the PCB/Contaminant Work, it cannot go forward.

- b. The Parties acknowledge that there may be circumstances under which the State proposes to schedule testing on an expedited basis. Testing shall be permitted to go forward with three business days notice provided that the State (1) has a good faith basis for concluding that there is an imminent threat to human health or safety if the testing is delayed and (2) provides details of the testing and a written description of that good faith basis to the parties within 12 hours of the testing being scheduled. Such notice should be given to Hannah Waite, hwaite@sheeheyvt.com, and Meagan Collins, mcollins@lynnlaw.com. The Parties retain their right to challenge the emergent nature of the testing.
- c. Other than testing discussed in paragraph (b), notice of testing shall be given through the State's contractor calendar. The Third Parties agree to update the calendar with notice as required in paragraph (a). If Plaintiffs are provided with notice of testing from any source directly, Plaintiffs are required to notify Defendants immediately if the scheduled testing does not appear on the calendar.
- d. If PCB/Contaminant Work has been tentatively scheduled, subject to final approval of a work plan by the State, the Third Parties shall provide dates for that PCB/Contaminant Work on the contractor calendar as required by paragraph (a), with a comment noting that the work plan has not been approved yet. *The State of Vermont shall provide a copy of this order to the contractors.*
- e. At least five business days before testing occurs, Plaintiffs shall provide Defendants access to all documents (e.g., building layouts, HVAC balancing reports, prior testing reports, testing plans, etc.) exchanged with the Third Parties performing the testing. This includes but is not limited to the work plans for the testing. *CR*
- f. Defendants shall provide notice to Plaintiffs regarding who will be attending PCB/Contaminant Work on behalf of Defendants at least three business days before the visit.

3. Defendants shall have the opportunity to attend and observe all PCB/Contaminant work. If the work is being completed under containment, a viewing window will be installed from which Defendants can view the work.

4. Defendants shall have the opportunity to take samples when Plaintiffs perform PCB/Contaminant Work. *The parties shall coordinate in good faith Defendants' opportunity to do so.*

5. Defendants shall have the opportunity to perform inspections of the school both before and after any PCB/Contaminant Work that alters the state of the school. *Defendants shall coordinate in good faith with the plaintiffs and/or the State of Vermont to do so, based upon which entity is performing testing.*

6. Defendants shall have the chance to inspect and test the ventilation systems before Plaintiffs implement remedial measures that would alter school ventilation systems in any way. Remedial measures do not include routine or emergency maintenance and routine or emergency mechanical repairs.

Order

7. Nothing in this ~~Stipulation~~ shall limit the discovery either party is entitled to or the discovery response times set forth in the applicable rules of civil procedure.
8. ~~Nothing set forth herein constitutes an agreement by Plaintiffs that the information exchanged or collected in accordance with this Stipulation constitutes evidence relevant to or admissible in this proceeding.~~ Plaintiffs expressly reserve and do not waive the right to object to any attempt by Defendants to admit or use in this proceeding information exchanged or collected in accordance with this ~~Stipulation~~.

Order. CR

IT IS SO ORDERED.

Dated at Burlington, Vermont this 12th day of September, 2025.



Hon. Christina Reiss
United States District Court Judge